

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case No. 20-cr-141 (DWF/TNL)

Plaintiff,

v.

ORDER

Lyndon Aukeem Swarn,

Defendant.

This matter comes before the Court on Defendant Lyndon Aukeem Swarn's Motion to Extend Time for Filing Pretrial Motion, ECF No. 59. Defendant has also filed a Statement of Facts in Support of Exclusion of Time Under Speedy Trial Act, ECF No. 60. Defendant requests a 30-day extension of time for filing pretrial motions as he has since been charged in state district court with second-degree murder and needs to review discovery and consult with counsel as to "how best to proceed in both cases." ECF No. 59 at 1. Further, Defendant "continue[s] to await the results of independent testing of controlled substances involved in this case." ECF No. 59 at 1; *accord* ECF No. 60 at 1; *see* ECF No. 57. Defendant states that the requested extension "will not delay" the arraignment and motion hearing currently scheduled for May 17, 2021. ECF No. 59 at 1; *see* ECF No. 58. The Government has no objection to the requested extension.

Pursuant to 18 U.S.C. § 3161(h), this Court finds that the ends of justice served by granting a continuance outweigh the best interests of the public and Defendant in a speedy trial and such continuance is necessary to provide Defendant and his counsel

reasonable time necessary for effective preparation and to make efficient use of the parties' resources.

Based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendant's Motion to Extend Time for Filing Pretrial Motions, ECF No. 59, is **GRANTED**

2. The period of time from **February 24 through May 17, 2021**, shall be excluded from Speedy Trial Act computations in this case.

3. The arraignment hearing shall remain as scheduled and take place before the undersigned on **May 17, 2021 at 1:00 p.m.**, in the **Edward J. Devitt Courtroom** at the Warren E. Burger Federal Building and U.S. Courthouse, 316 North Robert Street, **SAINT PAUL**, Minnesota.

4. All motions in the above-entitled case shall be filed and served consistent with Federal Rules of Criminal Procedure 12(b) and 47 on or before **March 29, 2021**. D. Minn. LR 12.1(c)(1). Two courtesy copies of all motions and responses shall be delivered directly to the chambers of Magistrate Judge Leung.

5. **Defense counsel shall electronically file a letter on or before March 29, 2021, clarifying the following:**

- a. **Whether the presently filed motions shall apply to the superseding indictment;**
- b. **Whether any of the presently filed motions are being withdrawn or supplanted by any newly filed motion; and**

c. Whether Defendant consents to arraignment and a motion hearing by videoconference.

6. Counsel shall electronically file a letter on or before **March 29, 2021**, if no motions will be filed and there is no need for hearing.

7. All responses to motions shall be filed by **April 12, 2021**. D. Minn. LR 12.1(c)(2).

8. Any Notice of Intent to Call Witnesses shall be filed by **April 12, 2021**. D. Minn. LR. 12.1(c)(3)(A).

9. Any Responsive Notice of Intent to Call Witnesses shall be filed by **April 15, 2021**. D. Minn. LR 12.1(c)(3)(B).

10. A motions hearing will be held pursuant to Federal Rules of Criminal Procedure 12(c) where:

- a. The government makes timely disclosures and a defendant pleads particularized matters for which an evidentiary hearing is necessary; or
- b. Oral argument is requested by either party in its motion, objection or response pleadings.

11. If required, the motions hearing shall remain as scheduled and take place before the undersigned on **May 17, 2021, at 1:00 p.m.**, in the **Edward J. Devitt Courtroom** at the Warren E. Burger Federal Building and U.S. Courthouse, 316 North Robert Street, **SAINT PAUL**, Minnesota.

12. TRIAL:

- a. **IF NO PRETRIAL MOTIONS ARE FILED BY DEFENDANT: the following trial and trial-related dates are:**

All voir dire questions and jury instructions must be submitted to District Judge Donovan W. Frank on or before **June 18, 2021**.

This case must commence trial on **June 28, 2021**, at **9:00 a.m.** before District Judge Donovan W. Frank in Courtroom 7C, Warren E. Burger Federal Building and U.S. Courthouse, 316 North Robert Street, **SAINT PAUL**, Minnesota.

- b. **IF PRETRIAL MOTIONS ARE FILED, the trial date, and other related dates, will be rescheduled following the ruling on pretrial motions. Counsel must contact the Courtroom Deputy for District Judge Frank to confirm the new trial date.**

Dated: February 25, 2021

s/ Tony N. Leung
TONY N. LEUNG
United States Magistrate Judge
District of Minnesota

United States v. Swarn
Case No. 20-cr-141 (DWF/TNL)